

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JORDAN DAVID KNIPPLING,

Plaintiff,

v.

GAIL ROBBINS,

Defendant.

CASE NO. 15-5829 RJB

ORDER ON REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge J. Richard Creatura. Dkt. 34. The Court has reviewed the Report and Recommendation (Dkt. 34) and the objections (Dkt. 35), and is fully advised.

The Plaintiff filed this case on November 16, 2015, pursuant to 42 U.S.C. § 1983, asserting claims related to the handling of various grievances and the Defendant's and others' treatment of him. Dkt. 6.

On October 24, 2016, the Report and Recommendation was issued. Dkt. 34. It recommends dismissal of the Plaintiff's claims for violation of his Equal Protection and Due Process rights. *Id.* It indicates that the Defendant did not specifically address the Plaintiff's

1 claims for violation of his Sixth Amendment rights, First Amendment rights or for retaliation,
2 and so recommends that the motion for summary dismissal of all claims should not be granted.

3 *Id.* The Report and Recommendation indicates that if it is adopted, a briefing schedule for
4 dispositive motions on the remaining claims will be set. *Id.*

5 The Defendant filed objections to the Report and Recommendation, and addresses the
6 Plaintiff's claims for violation of his Sixth Amendment rights, First Amendment rights and for
7 retaliation. Dkt. 35. The Defendant argues that summary judgment should be granted on these
8 claims. *Id.*

9 Plaintiff did not directly respond to the objections, but filed a motion to appoint counsel
10 and a motion to appoint expert witnesses. Dkts. 36 and 37. In these motions, Plaintiff appears to
11 believe that the Defendant's motion for summary judgment was denied. *Id.*

12 The Report and Recommendation (Dkt. 34) should be adopted. Plaintiff's claims for
13 violation of his Equal Protection and Due Process rights should be dismissed. While
14 Defendant's arguments regarding the dismissal of the remaining claims may have merit, the
15 motion to dismiss these claims was not properly noted in accord with the Federal Rules of Civil
16 Procedure or the Local Rules of the Western District of Washington because the motion was
17 only raised in the objections. These objections do not provide a basis to reject the Report and
18 Recommendation.

19 In the interest of giving all parties a full and fair chance to address all issues remaining in
20 the case, this matter and all pending motions should be re-referred to Judge Creatura for further
21 proceedings.


ORDER

It is **ORDERED** that:

- The Report and Recommendation (Dkt. 34) **IS ADOPTED**;
- Plaintiff's claims for violation of his Equal Protection and Due Process rights **ARE DISMISSED**; and
- This case and all pending motions **ARE RE-REFERRED** to U.S. Magistrate Judge J. Richard Creatura.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

Dated this 28th day of November, 2016.



ROBERT J. BRYAN
United States District Judge